IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.06.2007

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA
and
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

W.P.Nos.19641 and 20186 of 2001
and
W.P.M.P.No.28928 of 2001 &
45993 of 2002

B.Justin Immanuel .. Petitioner in WP 19641/2001

1. P.Ravindran
2. K.Ramu
3. M.Soundararajan
4. C.Vincent John
5. S.P.Subramanian
6. R.Dhakshinamoorthy .. Petitioners in WP 20186/2001

Versus

1. N.Suresh
2. R.Santhanam
3. K.Ravi
4. K.Suresh Kumar
5. G.Sundaraj

6. Union of India,
   rep. By Doordharshan Kendra,
   Chennai 5.

7. Central Administrative Tribunal,
   Chennai Bench, Chennai,
   rep. By Registrar .. Respondents in both WPs

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Writ Petitions filed under Article 226 of The Constitution of India to issue a Writ of certiorari to call for the records relating to order dated 05.09.2001 made in O.A.No.1184 of 2000 passed by the 7th respondent Tribunal and quash the same.

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For petitioner
in WP 19641/2001 : Mr.V.Vijay Shankar
For petitioner
in WP 20186/2001 : Mr.Selvan Babu
For R1 to R5 : Mr.Balan Haridass

For R6 : Mr.V.T.Gopalan
Addl.Solicitor General
for Mr.T.S.Sivgnanam,SCGSC

C O M M O N O R D E R

(Order of the Court was made by F.M.IBRAHIM KALIFULLA,J.)

In these two writ petitions, the petitioners are aggrieved against the order of the Central Administrative Tribunal dated 05.09.2001 passed in O.A.No.1184 of 2000 preferred by the contesting respondents 1 to 5. The challenge in the said Original Application was to an order dated 09.11.2000 of the sixth respondent and for a direction to the sixth respondent to count the seniority of the contesting respondents in the post of Lighting Assistant with effect from their first date of appointment and consider the first respondent for regularisation with effect from the date on which his immediate junior namely the second respondent was regularised, i.e. on 19.11.1994 and respondents 2 to 5 for regularisation with effect from the date on which their immediate juniors namely the petitioners herein were regularised, i.e. 03.09.1997 with all consequential benefits.

2. The facts relating to the respective date of joining of the petitioners and respondents 1 to 5 have been set out in detail in the impugned order of the Tribunal and therefore, we are not stating those details in this order. The common facts are that the petitioners and respondents 1 to 5 joined Doordarshan Kendra, Chennai between 1977 and 1986 on different dates as Casual Artists (Lighting Assistants). They were claiming for regularisation of their services in the post of Lighting Assistants. The claim of the Casual Artists was considered by the sixth respondent and by an Office Memorandum dated 09.06.1992, a Scheme of Regularisation was announced stipulating certain conditions under which such regularisation would take place. A subsequent Office Memorandum was also issued on 10.06.1992 by the sixth respondent, by which other guidelines were issued for implementing the Scheme of regularisation. Thereafter, when doubts were raised by the various Doordarshan Kendras, the same was clarified by the sixth respondent in its subsequent Office Memorandum dated 01.09.1992. Thereafter, all the eligible Casual Artists in the Doordarshan Kendra, Chennai were listed out based on their respective dates of eligibility. The names of 16 individuals were set out in the said list dated 20.10.1992. The names of the petitioners in

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W.P.No.20186 of 2001 appeared in S.Nos.3 to 7 and 9 in the said list, while the name of the petitioner in W.P.No.19641 of 2001 appeared in S.No.2 of the said list. Virtually, the said list dated 20.10.1992 was construed as the seniority list of all the Casual Lighting Assistants whose services came to be regularised pursuant to the Regularisation Scheme dated 09.06.1992 and the guidelines dated 10.06.1992.

3. The petitioner in W.P.No.19641 of 2001 was regularised with effect from 19.11.1994 while the petitioners in 20186 of 2001 were all regularised with effect from 12.09.1997. Be that as it may, one Thiru Kishanlal Kamboj, S/o Shri Shankar Lal approached the Principal Bench of the Central Administrative Tribunal contending that his service as Casual Labourer Artist announced on an earlier date than his juniors, whose services came to be regularised overlooking his seniority and the said application preferred by him in O.A.No.2484 of 1993 was considered by the Principal Bench of the Central Administrative Tribunal. The Principal Bench considered the stand of the said applicant, namely, as per the Scheme of Regularisation the seniority has to be reckoned with reference to the date of first engagement as Casual Labourer de hors the lower age limit fixed with reference to which there was no stipulation as far as Casual Labourers are concerned and on that basis held that the said applicant was senior to the contesting respondent 3 in that Original Application and therefore, the said applicant was entitled for his seniority to be fixed over and above the third respondent in that Original Application. After the order of the Central Administrative Tribunal, Principal Bench dated 14.07.1999, the Prasar Bharati issued an Office Memorandum dated 14.10.1999 in and by which the order of the Tribunal was implemented. The said Office Memorandum dated 14.10.1999 also directed the Doordarshan Kendras to the effect that if they had fixed the seniority of Casual Artists contrary to the order of the Central Administrative Tribunal, Principal Bench, New Delhi, they should immediately rectify their mistake. However, in the case of respondents 1 to 5, the sixth respondent herein by its order dated 09.10.2000 rejected their claim for refixing their seniority based on the Prasar Bharati's communication dated 14.10.1999. It was in the above stated circumstances, the respondents 1 to 5 approached the Tribunal by filing O.A.No.1184 of 2000. By the order impugned in these writ petitions, the Tribunal taking note of the order of the Principal Bench of the Tribunal in O.A.No.2484 of 1993 and the consequent direction of the Director (Administration) of Prasar Bharati dated 14.10.1999, set aside the order dated 09.10.2000, wherein the sixth respondent rejected the representation of respondents 1 to 5 made to the sixth respondent and directed the sixth respondent to recast the seniority of respondents 1 to 5 viz-a-viz petitioners by reckoning the date of initial engagement as the criteria for determining the seniority. The Tribunal also held that based on such recast seniority, respondents 1 to 5 would be entitled to all monetary and service benefits such as pay fixation on par with their juniors and promotion to higher grades based on the said recast seniority. The Tribunal also fixed the time limit of eight weeks for carrying out the said exercise.

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4. One other factor to be noted is that the petitioner in W.P.No.19641 of 2001 who was regularised as Lighting Assistant on 19.11.1994 was subsequently promoted as Cameraman. Even the contesting respondents 1 to 5 as well as the other petitioners have also stated to have been subsequently promoted as Cameraman in the year 1999. It is in the above said background, the petitioners have come forward with these two writ petitions.

5. Mr.Selvan Babu, learned counsel appearing for the petitioners in W.P.No.20186 of 2001 contended that the Original Application ought to have been dismissed by the Tribunal on the ground of delay and that in any event, the Tribunal ought not to have followed the Principal Bench ruling in O.A.No.2484 of 1993 dated 14.07.1999, but should have held that the seniority can be reckoned only from the dates which were set out in the seniority list dated 20.10.1992.

6. As far as the ground of delay is concerned, the learned counsel contended that amongst Casual Lighting Assistants, the petitioner in W.P.No.19641 of 2001 was appointed at the earliest point of time, namely 19.11.1994 and therefore, when respondents 1 to 5 were aggrieved as against the said petitioner, the Original Application preferred in the year 2000 was hopelessly barred by limitation. The learned counsel would contend that as a matter of fact when the seniority list was drawn as early as on 20.10.1992, it should be held that the cause of action commenced on that date itself when the contesting respondents were made known that their regularisation were to take effect from the date later than the dates from which the petitioners were all regularised. Therefore, their failure to approach the Tribunal within the stipulated time limit from the date i.e. either from 20.10.1992 or 19.11.1994 should fall solely on the ground of delay.

7.As far as the merits of the claims of respondents 1 to 5 are concerned, the learned counsel by relying upon the Service Rules which was in force as of the year 1979 contended that for the post of the Lighting Assistants the minimum age limit was 21 years and that the essential qualification prescribed was Matriculation or its equivalent with two years experience of lighting in stage, films or television. The learned counsel therefore contended that even though respondents 1 to 5 had joined as Lighting Assistants prior to the petitioners even as per the Scheme of Regularisation, they could have been validly regularised as Lighting Assistants only on fulfilment of the stipulations contained in the Rule and therefore, their initial date of engagement as Casuals when they did not satisfy the age and other qualification cannot be taken as the basis for reckoning their seniority.

8. In support of the above submissions, the learned counsel relied upon JT 1997 (5) SC 387 [Jagdish Lal and others vs. State of Haryana and others], 2003(2)LLN 432 [Bimlesh Tanwar vs. State of Hayana and others],

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(1996) 1 SCC 521 [Chief of Naval Staff and another vs. G.Gopalakrishna Pillai and others], JT 1998(3)SC 757 [Dr.Anuradha Bodi and others vs. Muniipal Corporation of Delhi and others], JT 1998 (3) SC 457 [K.Trimurthulu and others vs. M.V.N.Murthy and others], JT 1997(5)SC 712 [Union of India and others vs. M.Dharani and others], AIR 1988 SC 902 [R.Prabha Devi and others vs. Govt. of India and others], 2002(6)Supreme 429 [Ramesh P.Bhatnagar and another vs. State of U.P.] and an unreported judment of the Hon'ble Supreme Court in Appeal(Civil) 2791-2793 of 2002 [K.Madalaimuthu and another vs. State of Tamil Nadu and others].

9. Mr.Vijay Shankar, learned counsel appearing for the petitioner in W.P.No.19641 of 2001 while adopting the submission of Mr.Selvan Babu, contended that the Original Application ought to have been rejected on the ground of delay and laches. Learned counsel relied upon the decisions reported in 1998(2)SCC 523, 1998(6)SCC 720, 1996(10)SCC 444 and 1997(1)SCC 621.

10. As against the above submissions, Mr.Balan Haridass, learned counsel for respondents 1 to 5 contended that even as per the Scheme of Regularisation, there is a specific stipulation as to how the seniority has to be reckoned, that when the seniority is directed to be determined by the Tribunal is in accordance with the said Scheme, the same cannot be found fault with. The learned counsel contended that for the purpose of reckoning the seniority, there is no specific provision in the Rules and therefore, the provision contained in the Scheme would govern the manner in which the seniority has to be reckoned and therefore, the Tribunal's order cannot be found fault with. The learned counsel also contended that after the Principal Bench order, by way of an Office Memorandum dated 14.10.1999, the sixth respondent itself accepted the Tribunal's order and implemented the same by directing all the Doordarashan Kendras to rectify the mistakes in the matter of seniority, the sixth respondent themselves ought to have realligned the seniority as per the order of the Principal Bench of the Central Administrative Tribunal. It was therefore contended that the impugned order of the Tribunal in directing the sixth respondent to rectify the mistake and correct the seniority was well justified and the same does not call for any interference.

11. As far as the contention based on delay and laches are concerned, learned counsel contended that there was no question of delay involved in these cases, inasmuch as immediately after the orders of regularisation passed by the sixth respondent in respect of respondents 1 to 5, they submitted their representations for rectifying the seniority based on the Office Memorandum dated 14.10.1999, which was rejected by the sixth respondent only on 09.10.2000 and that immediately thereafter, the Original Applications came to be filed. The learned counsel therefore contended that there was no delay or laches in the filing of the Original Applications.

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12. The learned Additional Solicitor General appearing for the sixth respondent in his submissions stated that there is no Rule prescribing any minimum age limit for engagement as Casual Labourer and therefore, when respondents 1 to 5 at the time of their casual engagement had crossed 18 years, there was no illegality in their casual engagement. According to the learned Additional Solicitor General, the minimum age limit prescribed for Lighting Assistants had no application for engagement of Casual Lighting Assistants and therefore, the said Rule prescribing minimum of 21 years for appointment of Lighting Assistant by way of direct recruitment cannot be the basis for determining the seniority. The learned Additional Solicitor General therefore submitted that the Director (Administration) of Prasar Bharati issued the Office Memorandum dated 14.10.1999 directing all the Doordarshan Kendras to rectify the mistake in the matter of reckoning the seniority of such of those Lighting Assistants who were initially engaged as casuals and who were all subsequently regularised in the post of Lighting Assistants based on the Regularisation Scheme dated 09.06.1992/10.06.1992. He further pointed out that the clarification letter dated 11.11.1999 cannot run counter to the Scheme provisions contained in the Office Memorandum dated 09.06.1992/10.06.1992. The learned Additional Solicitor General therefore contended that the order of the Tribunal does not call for interference.

13. From the contentions of the respective parties and based on the material papers placed before the Court, we find that in the Scheme for regularisation dated 09.06.1992, it is specified that all the Casual Artists would be empanelled Kendra wise depending upon the length of service of Casual Artists and that they will be considered for regularisation in the order of their seniority against the available vacancies in that particular Kendra. It is also specifically stated that the seniority will be determined from the date of their initial engagement from the respective entry. Paragraph No.5 of the Scheme dated 09.06.1992 states that the Casual Artists who are to be regularised should possess the requisite educational qualification and/or experience as stipulated in the Recruitment Rules or other administrative instructions (in the absence of Recruitment Rules) that were existing for the post when the casual worker was initially engaged. Paragraph No.7 of the Scheme dated 09.06.1992 stipulates that the regularisation of Casual Artists would be from prospective date and the Casual Artists on the eligibility panel who fail to qualify for regularisation in accordance with the recruitment rules and instructions issued thereunder for the post, shall be removed from the panel. After issuance of the above Scheme, on the very next day i.e. 10.06.1992, the Government of India issued another Office Memorandum stating the guidelines for implementation of the Scheme. Paragraph No. (iii) of the said Office Memorandum specifically mentioned that for the purpose of determining the seniority, the date of initial engagement on casual basis will be the sole criterion. However, from some of the Kendras certain doubts were raised. One such doubt raised by one of the Kendras was that some of the Casual Artists were underaged at the time of initial

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engagement, but on the date of the promulgation of the Scheme they satisfied the age required for recruitment to the post of Lighting Assistants. By way of clarification, the Government of India in its Office Memorandum dated 01.09.1992 stated that such persons were obviously ineligible at the time of initial engagement as Causal Artists and that their claim for seniority should therefore be reckoned only from the date on which they came within the prescribed age limit as per the relevant Rules. Similar such clarification was issued as regards those Casual Artists who did not satisfy the requisite educational and other qualifications prescribed for the post of Lighting Assistants. It is in the above said background that the sixth respondent herein prepared the seniority list in respect of all eligible Casual Artists (Lighting Assistants) to be regularised as per the Scheme. The said seniority list was drawn on 20.10.1992. The respondents 1 to 5 though joined on 03.07.1984, 25.11.1984, 11.12.1984, 11.12.1984 and 26.04.1985 respectively, they were stated to have completed 21 years only on 10.05.1987, 20.05.1987, 30.05.1986, 04.04.1987 and 03.06.1987 and the third respondent satisfied the minimum educational qualification only in October 1998. Because of the above dates on which they were stated to have satisfied the age qualification though their entry as Casual Artists was prior to the date of entry of the petitioners in both these writ petitions, their names were put in the bottom of the list dated 20.09.1992 i.e. below the names of the petitioners. Keeping the above statement of facts in mind, as regards the petitioners viz-a-viz respondents 1 to 5, when we consider the contentions of the petitioners, at the outset, as regards the ground of delay and laches, we are in full agreement with the conclusion of the Tribunal in holding that the application was not hit by any delay. In paragraph No.8 of the order impugned in this writ petition, as regards the issue of delay, the Tribunal has held that respondents 1 to 5 were regularised only with effect from 15.11.1999 and that they could have agitated for the claim of seniority only from that date.

14. Apart from the fact that their services came to be regularised in the post of Lighting Assistants only from 15.11.1999 one other factor to be noted is that after their regularisation in the post of Lighting Assistants they made their representations before the sixth respondent herein for reallignment of their seniority as against the petitioners by a specific representation dated 01.06.2000. The said representation was rejected by the sixth respondent only on 09.10.2000. Immediately thereafter, the present Original Application came to be filed by respondents 1 to 5 in the year 2000 itself. In such circumstances, we are unable to accept the contention of the writ petitioners that respondents 1 to 5 ought to have agitated for their seniority on the date when the petitioner in W.P.No.19641 of 2001 was regularised in the post of Lighting Assistant on 19.11.1994 or by challenging the seniority list dated 20.10.1992. While making such a submission, the petitioners failed to note that the very right to seek for seniority would come into effect only when respondents 1 to 5 came to be appointed in the post of Lighting Assistants on a regular basis. Though the Scheme for Regularisation

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commenced as early as on 09.06.1992, the Scheme itself specified that the Casual Artists would be considered for regularisation only against the available vacancies in the particular Kendra. Though based on such regularisation in the available vacancies, the seniority would be determined from the date of their initial engagement by the Kendra. In such circumstances, until a specific order of regularisation was issued to respondents 1 to 5 they had no opportunity to question or raise any grievance as regards the fixation of their seniority as against the writ petitioners. Therefore, the seniority list drawn on 20.10.1992 or the regularisation order issued to the petitioner in W.P.No.19641 of 2001 cannot be held to be the date when the cause of action had arisen.

15. As regards the determination of the seniority of respondents 1 to 5 viz-a-viz the petitioners, since the regularisation of respondents 1 to 5 was issued only on 15.11.1999 and the seniority of respondents 1 to 5 came to be crystallised subsequent to the order of regularisation, they were well justified in raising their grievances for reallignment of their seniority in their representation dated 01.06.2000. In such circumstances, they were fully justified in questioning the rejection of their representation as ordered by the sixth respondent in its order dated 09.10.2000. If that be so, it cannot be held that the application of respondents 1 to 5 was belated or there was any inaction on the part of respondents 1 to 5 in challenging their seniority vis-a-vis the writ petitioners. Therefore, we reject the said contention of the petitioners on the ground of delay and laches.

16. As far as the decision relied upon by the learned counsel for the petitioners reported in JT 1997(5)SC 387 (cited supra), in the light of the facts involved in this case where we have noted that the very regularisation of respondents 1 to 5 came to be made only on 15.11.1999, we are unable to apply the ratio of the said decision to the facts of this case. Once we steer clear of the said ground of attack and deal with the merits of the claim of seniority, we wish to refer to some of the decisions relied on by the learned counsel for the petitioners in order to ascertain the position relating to determination of seniority.

17. In the decision reported in 2003(2)LLN 432 (cited supra), the Hon'ble Supreme Court has stated the position succinctly as under in paragraph No.44:

> "It is also well settled that in the absence of rules governing seniority an executive order may be issued to fill up the gap. Only in the absence of a rule or executive instructions, the Court may have to evolve a fair and just principle which could be applied in the facts and circumstances of the case."

18. The Hon'ble Supreme Court has stated that ad hoc appointment even though uninterruptedly followed by regularisation in the same post would

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not count for seniority. In the decision reported in JT 1998(3)SC 757 (cited supra), the Hon'ble Supreme Court referred to the principle set down by the Constitution Bench decision reported in 1990(2) SCC 715 [Direct Recruit Class II Engineering Officers' Association vs. State of Maharashra and others] as well the subsequent decision of the Hon'ble Supreme Court reported in 1993 (3) SCC 371 [State of West Bengal and others vs. Aghore Nath Dev and others] and had explained the proposition laid down in the Constitution Bench decision and ultimately held as under in paragraph No.12:

> "If the facts of these two cases are analysed in the light of the aforesaid decisions, there can be no doubt whatever that the petitioners fall within the corollary in Conclusion (A). The orders of appointment issued to the petitioners are very specific in their terms. Though the Recruitment Rules came into force on 6.8.82, the appointments were not made in accordance therewith. They were ad hoc and made as a stop gap arrangement. The orders themselves indicated that for the purpose of regular appointment the petitioners were bound to pass the U.P.S.C. examination in normal course in the direct competition. Hence the petitioners will not fall under the main part of Conclusion (A) or Conclusion (B) as contended by the learned counsel for the petitioners."

19. In the decision reported in JT 1998(3)SC 457 [cited supra], the Hon'ble Supreme Court has stated the legal position as under in paragraph No.6:

> "6. We have gone through both the Circulars and are satisfied that the Tribunal while laying down that the seniority of the appellants could be reckoned from the date of their regular appointment did not commit any error and has acted strictly in accordance with the Circular letters issued by the Ministry of Defence. Since it was the consistent policy of the Ministry of Defence that benefit of seniority would be allowed to casual employees only with effect from the date on which they are appointed on regular basis and that the period of casual service would not be counted towards seniority, the Tribunal was fully justified in recording the findings that the respondents would be senior to the appellants and that the Naval Dockyard was in error in treating the appellants as senior."

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20. In the decision reported in JT 1997 (5) SC 712 [cited supra], the Hon'ble Supreme Court by making a specific reference to the provisions which were contained in the regularisation scheme in sub clauses f and g of Clause 3 stated that in view of the clear terms of the regularisation policy, the Tribunal was not justified in granting the seniority to respondents in that case from the date of their initial appointment as Casual Workers.

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21. In the unreported judgment rendered in Appeal (Civil) 2791-2793 of 2002 [cited supra], the Hon'ble Supreme Court held that the consistent view and the well established legal position is that initial appointment to a post without recourse to the Rules of recruitment, cannot be said to be in service till the appointment is regularised and therefore, it is only from the date on which the persons services are regularised that such appointee can claim seniority over those who were appointed subsequently.

22. In the decision reported in AIR 1998 SC 902 [cited supra], the Hon'ble Supreme Court held that seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfils the eligibility condition prescribed by the relevant rules and that a person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. It was also held that seniority will be relevant only amongst persons eligible and seniority cannot be substituted for eligibility.

23. A conspectus consideration of all the above Rulings make it clear that only in the absence of specific rule relating to seniority, the Courts can evolve a fair and just principle to be applied in the facts and circumstances of the case before it. In the Constitution Bench decision, the Hon'ble Supreme Court made it clear that where the initial appointment is only ad hoc and were not according to the Rules, but were made as a stop gap arrangement, the officiation in such posts cannot be taken into account for considering the seniority. However, in the very same judgment, the Hon'ble Supreme Court held that if the initial appointment is not made by following the procedure laid down under the Rules but the appointee continues in the post uninterruptedly till the regularisation of the service in accordance with the Rules, the period of officiating service can be counted. In fact, the said principle set down by the Constitution Bench decision of the Supreme Court was applied in the subsequent decision reported in JT 1998 (3)SC 757 [cited supra].

24. When the above principles set down by the Constitution Bench decision of the Supreme Court is applied to the facts of this case and when we peruse the regularisation scheme announced by the Government of India, we find that for the purpose of regularisation the Casual Artists should possess the requisite educational qualification/ experience as stipulated in the recruitment rules which was in force as on the date of their initial engagement as Casuals. It is also made clear in the Scheme that regularisation of Casual Artists would be from prospective date and the Casual Artists on the eligibility panel who fail to qualify for regularisation in accordance with the recruitment rules should be removed from the panel. It is true that the subsequent clarification issued by the Government of India in their Office Memorandum dated 01.09.1992 stated that those persons who were ineligible at the time of initial engagement as Casual Artists cannot claim seniority based on their date of initial engagement and that their seniority can be reckoned only from the date on

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which they fall within the prescribed age limit as per the relevant rules and from the date on which they acquire the prescribed qualification as per the Rules. Unfortunately, the said clarification letter failed to take note of the guidelines which were issued as part of the regularisation Scheme on 10.06.1992. The said guidelines issued on 10.06.1992 made it clear that for the purpose of determining the seniority the date of initial engagement on casual basis will be the sole criterion. The said guidelines for implementation of the Scheme for regularisation of Casual Artists dated 10.06.1992 will have to be read as part of the Regularisation Scheme. If that be so, applying the decision of the Hon'ble Supreme Court reported in 2003 (2)LLN 432 [cited supra], it will have to be held that the said guideline would govern the Rule relating to reckoning of the seniority of the Casual Artists whose services are regularised.

25. As rightly contended by the learned counsel for the contesting respondents 1 to 5, when there is no specific Rule or any specific provision in the statutory rule for determination of seniority, the provision contained in the Scheme of Regularisation would govern the field and that the said provision makes it clear that the date of initial engagement on Casual basis would be the sole criterion. The decision of the Principal Bench of the Central Administrative Tribunal which is in accordance with the Scheme provisions was perfectly in order. Therefore, the implementation of the order of the Principal Bench dated 14.07.1999 in O.A.No.2484 of 1993 by the Government of India in its order dated 14.10.1999 by way of an Office Memorandum was fully justified. It is relevant to state that the order of Doordarshan dated 14.10.1992 implementing the order of the Principal Bench was never challenged by any one much less the petitioners. In such circumstances, the provision contained in the Scheme to the effect that for the purpose of determining the seniority the date of initial engagement on Casual basis would be the sole criterion had the sanction of the judicial forum, namely the Principal Bench of the Central Administrative Tribunal which was also accepted by the Doordarshan Kendra in its order dated 14.10.1999. Therefore, the cumulative effect of all the above namely that the Scheme of regularisation specifically provided the manner in which the seniority of the Casual Artists in the event of their regularisation which position having been approved by the judicial forum and the acceptance of the same by the employer, namely the Doordarshan Kendra, in the absence of any other provision in the statutory rule, we are of the considered opinion the Scheme provision would alone govern the procedure to be followed for reckoning the seniority of Casual Artists on the regularisation of their services in the post of Lighting Assistants as part of the implementation of the Scheme of regularisation.

26. Therefore, we are convinced that the order of the Tribunal impugned in these writ petitions in having directed the sixth respondent herein to strictly adhere to the Scheme of Regularisation as stipulated in the original scheme dated 09.06.1992 as well as the guidelines for

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implementing the said Scheme as issued on 10.06.1992 was perfectly justified and the same does not call for interference. Therefore, when such prescribed provisions have been taken note of by the Tribunal while passing the order impugned in these writ petitions,we do not find any violation in issuing such directions to the sixth respondent herein for the purpose of reckoning the seniority of respondents 1 to 5 viz-a-viz the petitioners. Therefore, we do not find any merits in these writ petitions in order to interfere with the said order of the Tribunal. Moreover, the learned counsel for respondents 1 to 5 in the course of his submissions stated that the implementation of the impugned order of the Tribunal is not going to in any way affect the subsequent promotions gained by the petitioners in W.P.No.19641 of 2001 or for that matter the other petitioners in W.P.No.20186 of 2001 and inasmuch as the petitioners as well as respondents 1 to 5 got their subsequent promotions to the post of cameraman. In such circumstances, we are convinced that the order of the Tribunal impugned in these writ petitions in directing the sixth respondent to reallign the seniority to respondents 1 to 5 vis-a-vis the petitioners strictly based on the date of their original engagement as Casual Lighting Assistants is perfectly in order and we do not find any scope to interfere with the same. These writ petitions fail and therefore, the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

gms
To

1. Doordharshan Kendra,
   Union of India, Chennai 5.

2. Registrar
   Central Administrative Tribunal,
   Chennai Bench, Chennai,

1 cc To Mr.T.S.Sivagnanam, Advocate, SR.37599.
1 cc To Mr.V.Vijayshankar, Advocate, SR.38123.
1 cc To M/s.Balan Haridoss, Advocate, SR.38335.
1 cc To Mr.T.D.Selvan Babu, Advocate, SR.37564.

W.P.Nos.19641 and 20186 of 2001

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